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June 13, 1997

**BY HAND DELIVERY**

Mr. William F. Caton  
 Acting Secretary  
 Federal Communications Commission  
 1919 M Street, N.W., Stop Code - 1170  
 Washington, D.C. 20554

Re: **Petition for Reconsideration filed by La Dov Educational Outreach, Inc.**  
**Sixth Report and Order; FCC 97-115; MM Docket No. 87-268**

Dear Mr. Caton:

Transmitted herewith, on behalf of La Dov Educational Outreach, Inc., are a facsimile of an original and eleven copies of a Petition for Reconsideration to be filed in the above-referenced matter. La Dov has a pending application for a non-commercial television station to serve Sacramento, California, on Channel 52 (FCC File No. BPET-900312KG).

If any questions should arise during the course of your consideration of this matter, it is respectfully requested that you communicate with this office.

Very truly yours,

BROOKS, PIERCE, McLENDON,  
 HUMPHREY & LEONARD, L.L.P.

Mark J. Frank

Counsel to La Dov Educational Outreach, Inc.

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Advanced Television Systems	)	
and Their Impact upon the	)	MM Docket No. 87-268
Existing Television Broadcast	)	
Service	)	

To: The Commission

**PETITION FOR PARTIAL RECONSIDERATION  
OF THE SIXTH REPORT AND ORDER  
SUBMITTED BY LA DOV EDUCATIONAL OUTREACH, INC.**

This Petition for Partial Reconsideration of the Commission's *Sixth Report and Order* in MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("*Sixth R&O*" or "*Allotment Order*") is submitted on behalf of La Dov Educational Outreach, Inc. ("La Dov"). La Dov is an applicant for a new non-commercial television station on Channel 52 in Sacramento, California (BPET-900312KG). La Dov submits this Petition for the Commission to reconsider its decision in which it failed to protect the Channel 52 allotment by allocating DTV Channel 52 to San Jose, California.

La Dov is a nonprofit, nonstock educational organization recognized as a tax-exempt entity under both California and Federal law. La Dov is controlled by women who are proposing, upon information and belief, the nation's first public television station controlled by women. The scope and substance of La Dov's proposed programming is demonstrably non-commercial. No less than 63% of the stations' programming will be dedicated to educational purposes generated by a consortium of all accredited public and private elementary, junior and high schools, Parent-Teacher

Associations, colleges, universities and city/county libraries in the Sacramento area. Such programming, at present, is dramatically under-represented in the region. The balance of La Dov's proposed programming schedule will be dedicated to local programming of societal benefit.

On February 20, 1986, Joan Carlino-Sisk filed a Petition for Rule Making to allot non-commercial television station Channel 52 to Sacramento (Docket No. 86-246). On December 28, 1987, the Commission amended its table of allotments to include Channel 52 in Sacramento, an action taken subsequent to the Commission's entry on July 17, 1987 of its *Freeze Order*, freezing the acceptance of UHF television applications in markets such as Sacramento. *See Sixth R&O*, at ¶ 104.

On March 12, 1990, La Dov, through its president and director Joan Carlino-Sisk, filed its application for a new non-commercial television station on Channel 52 in Sacramento, together with a request for waiver of the Commission's *Freeze Order*. The Commission has not acted on either of these requests.

In this petition, La Dov urges the Commission to reconsider its failure to protect Channel 52 in Sacramento. In the *Sixth R & O*, the Commission promised to protect any NTSC allotment that was the subject of a pending application. Specifically, the Commission stated: "Consistent with our policy stated in the *Sixth Further Notice* with regard to pending applications and petitions for rule making requesting new allotments, **we will maintain and protect those vacant allotments** and will avoid creating DTV allotments that would conflict with proposed new NTSC allotments." *Sixth R & O* at ¶ 112 (emphasis added). This rule also applies to applications to construct non-commercial stations. *Id.*

& O at ¶ 112 (emphasis added). This rule also applies to applications to construct non-commercial stations. *Id.*

The Commission, however, did not "maintain and protect" the Channel 52 allotment even though it is the subject of a pending application of La Dov. (See the attached Exhibit, an Engineering Statement prepared by Smith and Fisher) In the *Sixth R & O*, the Commission has allotted DTV Channel 52 to KICU-TV, San Jose. Due to the short separation between KICU-TV and the Sacramento allotment, DTV KICU-TV cannot coexist on a co-channel basis with an NTSC facility in Sacramento. As a result, the Commission has failed to "maintain and protect" vacant Channel 52 as required by the *Sixth R & O*.

Therefore, La Dov respectfully requests that the Commission allot a different, non-interfering DTV channel to KICU-TV, or alternatively, to allot a replacement channel for Channel 52 in Sacramento. According to a computer study conducted by MSTV/NAB entitled "Alternate DTV Channel Assignments in the Continental United States," dated May 28, 1997, DTV Channel 67 can be assigned to Sacramento and utilized at the site proposed by La Dov. Thus, if Channel 52 in Sacramento cannot be protected, La Dov requests that noncommercial DTV Channel 67 be allotted to Sacramento and that La Dov be permitted to amend its application to specify operation as a DTV facility on that channel.

If Channel 52 in Sacramento can be protected, La Dov proposes that it be allowed to operate as a DTV channel on Channel 52, and that La Dov be permitted to amend its application to specify operation as a DTV facility on that channel.

Respectfully submitted, this the 13th day of June, 1997.

LA DOVE EDUCATIONAL OUTREACH, INC.

By: 

Wade H. Hargrove

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Counsel to La Dov Educational Outreach, Inc.

SMITH AND FISHER

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## ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of LA DOV EDUCATIONAL OUTREACH, INC. ("La Dov"), applicant for a new noncommercial television station on Channel 52 in Sacramento, California (BPET-900312KG), in support of its Petition for Reconsideration of the Commission's *Sixth Report and Order* in MM Docket No. 87-268 concerning the implementation of digital television (DTV) services.

In this proceeding the FCC allotted DTV channels to almost all full-service broadcasters, but it did not assign such a channel to the NTSC Channel 52 allotment in Sacramento. Further, the Commission allotted DTV Channel 52 to KICU-TV, San Jose. Due to the separations involved, DTV KICU-TV cannot coexist on a co-channel basis with an NTSC facility in Sacramento.

Based upon the 1990 filing date of the La Dov application and the educational status of the Channel 52 reservation in Sacramento, NTSC Channel 52 should be protected from other DTV assignments, should be assigned a DTV channel, or, in the alternative, should have its present channel converted to a noncommercial DTV allotment in Sacramento.

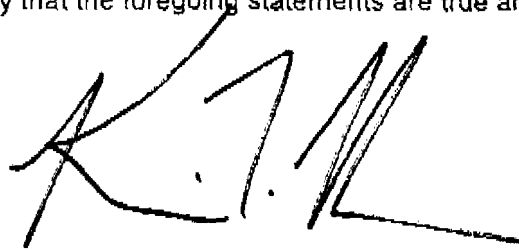
In addition, according to an MSTV/NAB computer study entitled "Alternative DTV Channel Assignments in the Continental United States," dated May 28, 1997, DTV Channel 67 can be assigned to Sacramento and utilized at the site proposed by La Dov. If NTSC Channel 52 in Sacramento cannot be protected from DTV allotments and cannot be converted to DTV Channel 52, then it is proposed that noncommercial DTV Channel 67 (or another suitable channel) be allotted to Sacramento, and that La Dov be permitted to amend its application to specify operation as a DTV facility on that channel.

SMITH AND FISHER

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Since the Channel 52 allotment in Sacramento represents one of only two educational television outlets in the Sacramento-Stockton DMA, the 20th-largest market in the US, the public interest is best served by preserving this television channel for NTSC and/or DTV use.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read 'K. T. Fisher', with a stylized, sweeping flourish at the end.

KEVIN T. FISHER

June 9, 1997